

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

ContentGuard Holdings, Inc.,

Plaintiff,

-against-

Google Inc.

Defendant.

Civil Action No. 2:14-cv-0061-JRG

JURY TRIAL DEMANDED

**PLAINTIFF CONTENTGUARD HOLDINGS, INC.'S NOTICE REGARDING
DEFENDANT GOOGLE INC.'S MOTION FOR RECONSIDERATION (DKT. 48)**

Plaintiff ContentGuard Holdings, Inc. (“ContentGuard”) respectfully files this Notice to bring to the Court’s attention a development that bears on Defendant Google Inc.’s (“Google”) Motion for Reconsideration.

On December 23, 2014, Google filed a complaint in this Court against Visa Inc., Visa U.S.A., Inc., Visa International Service Association, Mastercard Incorporated, and Mastercard International Incorporated. Google’s complaint is attached hereto as Exhibit A. The lead defendant in this action, Visa Inc., is headquartered in Foster City, California, approximately 20 miles from Google’s own headquarters in Mountainview, California.

ContentGuard respectfully submits that Google’s complaint against Visa Inc. demonstrates that this Court is a convenient forum for ContentGuard’s litigation against Google and for ContentGuard’s co-pending litigation against Google’s partners. Google should not be permitted to argue that this Court is (1) convenient when Google wishes to litigate as a plaintiff against California companies; but (2) inconvenient when Google finds itself litigating as a defendant against Texas companies.

Dated: December 26, 2014

Respectfully submitted,

/s/ Sam Baxter

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**ATTORNEYS FOR CONTENTGUARD
HOLDINGS, INC.**

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this document was served on all counsel who have consented to electronic services on this the 26th Day of December 2014. Local Rule CV-5(a)(3)(A).

/s/ Radu A. Lelutiu

Exhibit A

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

GOOGLE INC. AND	§	
GOOGLE PAYMENT CORPORATION,	§	
	§	
Plaintiffs	§	
	§	
v.	§	CIVIL ACTION NO. _____
	§	
VISA INC., VISA U.S.A., INC., VISA	§	
INTERNATIONAL SERVICE	§	
ASSOCIATION, MASTERCARD	§	
INCORPORATED, AND MASTERCARD	§	
INTERNATIONAL INCORPORATED,	§	
	§	
Defendants.	§	

PLAINTIFFS' ORIGINAL COMPLAINT AND JURY DEMAND

In this Complaint against Defendants Visa, Inc., Visa U.S.A., Inc., Visa International Service Association (collectively "Visa"), MasterCard Incorporated, and MasterCard International Incorporated (collectively "MasterCard"), Plaintiffs allege as follows:

JURISDICTION AND VENUE

1. The Court has subject-matter jurisdiction under 28 U.S.C. § 1331 and 28 U.S.C. § 1337 because this action arises under Section 1 of the Sherman Act, 15 U.S.C. § 1.
2. Venue is proper in the United States District Court for the Eastern District of Texas under 28 U.S.C. § 1391. Defendants reside in, are found in, have agents in, and/or transact business in this District as provided in 29 U.S.C. §1391(b) and (c). A substantial part of the interstate trade and commerce involved and affected by the alleged violations of the antitrust laws was carried on within the Eastern District of Texas. Accordingly, the acts complained of had substantial anticompetitive effects in this judicial district.

BACKGROUND FACTS

3. During the January 1, 2004 to November 28, 2012 time period, Plaintiffs were merchants and accepted both Visa and MasterCard credit and debit cards for payment. Accordingly, Google Inc. and Google Payment Corporation have had to pay and have paid Defendants' interchange fees, and have abided by the related restraints imposed on merchants that accept Visa and MasterCard credit and debit cards.

4. Plaintiffs have timely opted out of the Rule 23(b)(3) settlement class approved by the court on November 28, 2012 in *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*, Case No. 1:05-md-01720-JG-JO, United States District Court for the Eastern District of New York.

ALLEGATIONS AND CLAIMS FOR RELIEF

5. Visa and MasterCard have adopted and imposed supra-competitive "default" interchange fees and other restraints on Plaintiffs throughout the January 1, 2004 to November 28, 2012 time period.

6. Defendants' credit and debit card interchange fees and the related restraints violated Section 1 of the Sherman Act.

7. As a result of Defendants' violations of Section 1 of the Sherman Act, Plaintiffs have suffered antitrust injury.

8. Plaintiffs seek to recover actual damages for their losses.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray that this Court enter judgment in favor of Plaintiffs and against each Defendant, and award Plaintiffs their actual damages as well as all other relief which the Court deems just, equitable, and proper.

Respectfully submitted,

By: /s/ David T. Moran

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